

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division

MARK ANTONIO WALLACE, #337808,

Petitioner,

v.

CIVIL ACTION NO. 2:08cv28

GENE M. JOHNSON, Director of the  
Virginia Department of Corrections,

Respondent.

FILED
APR 23 2008
CLERK, U.S. DISTRICT COURT NORFOLK, VA

FINAL ORDER

This matter was initiated by petition for a writ of habeas corpus under 28 U.S.C. § 2254. The petition alleges violation of federal rights pertaining to Petitioner's conviction on April 27, 2004, in the Circuit Court for the City of Newport News, Virginia, for abduction, malicious wounding and armed burglary. Petitioner was sentenced to a total of forty-seven (47) years in prison (a term of five (5) years for abduction; a term of twenty (20) years for malicious wounding; and a term of twenty-two (22) years for armed burglary).

The matter was referred to a United States Magistrate Judge, pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C), Rule 72(b) of the Federal Rules of Civil Procedure, and Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia, for report and recommendation. The report of the Magistrate Judge recommending dismissal of the petition was filed on March 31, 2008. By copy of the report, each party was

advised of his right to file written objections to the findings and recommendations made by the Magistrate Judge. The Court has received no objections to the Magistrate Judge's Report and Recommendation, and the time for filing same has expired.

The Court hereby ADOPTS the findings and recommendations set forth in the report of the United States Magistrate Judge, filed on March 31, 2008, and it is, therefore, ORDERED that the petition be DENIED and DISMISSED WITH PREJUDICE and that judgment be entered in favor of Respondent.

Petitioner may appeal from the judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of this Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty (30) days from the date of entry of such judgment. The Petitioner has failed to demonstrate "a substantial showing of the denial of a constitutional right." Therefore, the Court, pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure, declines to issue a certificate of appealability. See Miller-El v. Cockrell, 537 U.S. 322, 335-36 (2003).

The Clerk shall mail a copy of this Order to Petitioner and to counsel of record for Respondent.

  
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WALTER KELLEY  
UNITED STATES DISTRICT JUDGE

Norfolk, Virginia

April 23, 2008